

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

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MARTIN WEAKLEY, derivatively on behalf  
of AMERICAN SUPERCONDUCTOR  
CORPORATION,

Plaintiff,

vs.

GREGORY J. YUREK, DAVID A. HENRY,  
VIKRAM S. BUDHRAJA, PETER O. CRISP,  
RICHARD DROUIN, PAMELA F.  
LENEHAN, DAVID R. OLIVER, JR., JOHN  
B. VANDER SANDE, and JOHN W. WOOD,  
JR.,

Defendants,

and

AMERICAN SUPERCONDUCTOR  
CORPORATION,

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Nominal Defendant.

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Civil Action No: 11-cv-10784-WGY  
Lead Case

**JOINT STATEMENT AND [PROPOSED] SCHEDULING ORDER**

The proposed schedule set forth below is based on the September 4, 2012 trial date set by the Court at a June 16, 2011 hearing.<sup>1</sup> On June 28, 2011, the parties filed a Stipulation and Proposed Order staying this consolidated derivative action, appointing co-lead counsel, and addressing related matters. (Docket Entry No. 4). As discussed in that Stipulation and Proposed Order, there are several putative securities class actions against American Superconductor Corporation (“AMSC”) and certain of the Individual Defendants currently pending in this Court, which were consolidated under docket number 11-10582-WGY (*Lenartz v. American*

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<sup>1</sup> *Lenartz v. American Superconductor Corp., et. al*, No. 11-10582-WGY, Electronic Clerk’s Notes for Proceedings Held Before Judge William G. Young: Hearing re Appointment of Lead Counsel (June 16, 2011).

*Superconductor Corporation, et al.*) (the “Securities Action”).<sup>2</sup> The resolution of the anticipated motion to dismiss in the Securities Action will likely impact the allegations against the Defendants in this action. Accordingly, the proposed schedule, as set forth below, will not, as a practical matter, feasibly work for the parties in this action. The parties respectfully request that the Court consider the Stipulation and Proposed Order prior to ruling on this proposed scheduling order.

Plaintiffs Martin Weakley, Patrick Connors, and Vincent Hurd,<sup>3</sup> derivatively on behalf of American Superconductor Corporation (“AMSC”) and the Defendants Gregory J. Yurek, David A. Henry, Vikram S. Budhraj, Peter O. Crisp, Richard Drouin, Pamela F. Lenehan, David R. Oliver, Jr., John B. Vander Sande, and John W. Wood, Jr., along with the Nominal Defendant, AMSC, respectfully submit the following Joint Statement and [Proposed] Scheduling Order pursuant to this Court’s order<sup>4</sup> and Local Rule 16.1(d), and agree as set forth below for the further conduct of the case to trial.

**A. Joint Discovery Plan**

The parties propose the following discovery plan for the conduct of this litigation:

1. All motions seeking leave to add new parties, or to amend the pleadings to assert new claims or defenses, must be filed by August 29, 2011.
2. Initial document requests and interrogatories shall be propounded by the parties by no later than September 30, 2011.

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<sup>2</sup> The other putative securities class actions consolidated with *Lenartz* are *Chun v. American Superconductor Corporation, et al.*, No. 11-10610-WGY; *Godt v. American Superconductor Corporation, et al.*, No. 11-10653-WGY; *Murphy v. American Superconductor Corporation, et al.*, No. 11-10665-WGY; *Griffin v. American Superconductor Corporation, et al.*, No. 11-10707-WGY; *Foster v. American Superconductor Corporation, et al.*, No. 11-10743-WGY; and *Norfolk County Retirement System v. American Superconductor Corporation, et al.*, No. 11-10849-WGY.

<sup>3</sup> The other derivative actions consolidated with *Weakley* are *Connors v. Yurek, et al.*, No. 11-10910-WGY and *Hurd v. Yurek, et al.*, Docket No. 11-11102-WGY.

<sup>4</sup> *Lenartz v. American Superconductor Corp., et. al*, No. 11-10582-WGY, Electronic Clerk’s Notes for Proceedings Held Before Judge William G. Young: Hearing re Appointment of Lead Counsel (June 16, 2011).

**Plaintiffs' Position: The discovery event limitations of Local Rule 26.1(c) shall not apply to this action.**

**Defendants' Position: The discovery event limitations of Local Rule 26.1(c) shall apply to this action.**

3. Initial disclosures under Fed. R. Civ. P. 26(a)(1) are to be served within 14 days after the parties' Rule 26(f) conference, unless a different time is set by stipulation or court order, or unless a party objects during the conference that initial disclosures are not appropriate in this action and states the objection in the proposed discovery plan.

4. Non-expert witness and fact discovery, including all depositions, must be concluded by May 15, 2012:

- a. All requests for production of documents and interrogatories must be served by February 15, 2012;
  - i. Responses to the document requests and interrogatories – including the production of responsive documents – shall be provided within thirty (30) days after service.
- b. All requests for admission must be served by March 15, 2012; and
- c. All non-expert depositions must be completed by May 15, 2012.
  - i. The parties agree to provide at least seven (7) days notice for nonparty depositions. The parties agree to work together to schedule party depositions and further agree to provide at least ten (10) days notice for party depositions, including Rule 30(b)(6) depositions, and duces tecum requests.

5. Expert witnesses must be designated and the information contemplated by Fed. R. Civ. P. 26(a)(2) must be disclosed by June 1, 2012.

6. Any rebuttal expert witnesses must be designated and the information contemplated by Fed. R. Civ. P. 26(a)(2) must be disclosed by July 2, 2012.

7. Expert witness depositions pursuant to Fed. R. Civ. P. 26(a)(2) must be completed by July 31, 2012.

8. The parties have agreed that any and all drafts of expert reports sent to counsel are not discoverable.

9. The parties understand their obligation to limit discovery as set forth in Fed. R. Civ. P. 26(b), and do not believe, at this time, that phased discovery is appropriate for this matter.

**B. Proposed Schedule for Filing of Motions**

The parties propose the following schedule for filing of motions.

1. Parties may file motions to compel and seek other orders of the Court as the need arises, subject to the provisions of this Court's Local Rules.

2. Any motion to dismiss the amended complaint must be filed by October 13, 2011.

3. Any opposition to the motion to dismiss must be filed by November 14, 2011.

4. Any reply to the opposition must be filed by November 29, 2011.

5. The Court shall determine dates for a final pre-trial conference and for trial after the completion of discovery and determination of any dispositive motions filed by the parties.<sup>5</sup>

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<sup>5</sup> At the June 16, 2011 hearing, Judge Young ordered the Trial in this matter set for the Running Trial List for September 4, 2012. A notice regarding the final pretrial conference will be sent in July 2012. Judge Young further ordered that this case shall go to ADR as of October 2011. *Lenartz v. American Superconductor Corp., et. al*, CA No. 11-10582-WGY, Electronic Clerk's Notes for Proceedings Held Before Judge William G. Young: Hearing re Appointment of Lead Counsel (June 16, 2011).

**C. Certifications Under Local Rule 16.1(d)(3)**

Certifications required under Local Rule 16.1(d)(3) are attached hereto or will be submitted separately by each party by the time required under the Local Rule.

**D. Modification of Scheduled Dates**

Pursuant to the restrictions on modifications of scheduling orders in Local Rule 16.1(g), the parties may make a joint motion for modification upon a showing of good cause.

**E. Magistrate Judge**

At this time, the parties do not consent to submission of this case to a Magistrate Judge.

Respectfully submitted,

/s/ Robert B. Weiser

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*Counsel for Plaintiff Vincent Hurd*

Dated: June 30, 2011

**CERTIFICATE OF SERVICE**

I, Anthony A. Scibelli, hereby certify that the foregoing Joint Statement and [Proposed] Scheduling Order filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and paper copies will be sent to those indicated as non registered participants on June 30, 2011.

/s/ Anthony A. Scibelli  
Anthony A. Scibelli